



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,368	04/18/2001	Naosato Taniguchi	2369.12215	6893

5514 7590 12/20/2002

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

CHANG, AUDREY Y

ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS

Washington, D.C. 20231

[Signature]

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT PAPER

7

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Enclosed please find the statement for non-responsive amendment.

Audrey Y. Chang
Primary Examiner
Art Unit: 2872

Response to Amendment

1. The reply filed on October 21, 2002 is *not fully responsive* to the prior Office Action because: applicant fails to list the claims that read on elected species A. Applicant identified claims 1 and 29 read on species A but then also suggests that the claims also read on other non-elected species. Such response makes the election very confused. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

2. Applicant's arguments concerning the elected claims 1 and 29 are generic to all of the species, (Species A-D referred to Figures 1, 12, 20 and 23), have carefully reviewed. While the Examiner agrees that claims 1 and 29 are generic to Figures 1 and 12 (Species A and B) they are **NOT** generic to species C and D (Figures 20 and 23), for the following reasons. Claims 1 and 29 both recite the light from the display device be "guided (or guiding) ... to an optical modulator ... by a *second optical system* disposed in front of said image displaying device". Figures 20 and 23 show that the optical modulator is disposed right in front of the image displaying device *without* any second optical system interposed in between to guide the image light to the modulator. Claims 1 and 29 therefore are not generic to species C and D referred to Figures 20 and 23.

Art Unit: 2872

3. The applicant has identified claims 1 and 29 to be generic to species A and B but *fails* to identify the *list of claims* that read on the elected species A as required by MPEP. The election is therefore not complete and non-responsive.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Audrey Y. Chang whose telephone number is 703-305-6208. The examiner can normally be reached on Monday-Friday (8:00-4:30), alternative Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703-308-1637. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and 703-872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Audrey Y. Chang
Primary Examiner
Art Unit 2872

A. Chang, Ph.D.
December 18, 2002

